(Part I.—Preliminary. Part II.—Establishment and Constitution of Civil Courts.)

ACT No. III OF 1873.[1]

[THE MADRAS CIVIL COURTS' ACT, 1873]

[*21st January 1873.*]

An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called " The Madras Civil Courts Act, 1873 " :

Local extent. It extends to all the territories [2][. . .] under the Government of the Governor of Fort St. George in Council, except the Tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam ;

And it shall come into force on the 1st day of March 1873.

Commencement. **2.** [*Repeal of certain enactments. Repealed by the Repealing Act,* 1873 (*Central Act XII of* 1873).]

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

Number of District Courts. **3.** The number of District (heretofore designated Zila) Courts to be established or continued under this Act, shall be fixed, and may from time to time be altered, by the [3] [State Government :]

[4] [* * * * * *]

Appointment of Additional District Judges. [5] [**3-A.** When in the opinion of the High Court, the state of business pending before the Judge of any District Court (hereinafter called the ' District Judge ') so requires, the

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[1] For Statement of Objects and Reasons *see Gazette of India,* 1873, Part V, page 173 ; for Report of the Select Committee *see ibid,* page 695 ; for proceedings in Council relating to the Bill, *see ibid,* Supplement, 1870, page 900 and *ibid,* 1873, pages 3, 16 and 153.

[2] The words " for the time being " were omitted by the First Schedule to the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] The words " Provided that no increase to the number of such Courts shall be made by such Government, without the previous sanction of the Governor-General in Council " were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch. Pt. I.

[5] Section 3-A was inserted by section 2 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[1] (State Government) may appoint one or more Additional District Judges to that Court for such period as they may deem necessary.

The Additional District Judges so appointed shall discharge all or any of the functions of the District Judge under this Act or any other law for the time being in force which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.]

Number of Subordinate Judges and District Munsifs.

4. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each district, shall be fixed, and may from time to time be altered, by the [1] [State Government].

[2][* * * * * *]

[3] [The [1] (State Government) may after consultation with the High Court, fix and from time to time vary by notification the number of Subordinate Judges to be appointed for a Subordinate Judge's Court or the number of District Munsifs to be appointed for a District Munsif's Court.]

[4] [**4-A.** When more than one Subordinate Judge is appointed to a Subordinate Judge's Court or more than one District Munsif to a District Munsif's Court, one of the Subordinate Judges or the District Munsifs shall be appointed the Principal Subordinate Judge or Principal District Munsif and the others Additional Subordinate Judges or Additional District Munsifs as the case may be.

Each of the Judges appointed to a Subordinate Judge's Court or a District Munsif's Court may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal District Munsif may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.]

Court's locality.

5. The place at which any Court under this Act shall be held may be fixed, and may from time to time be altered, in the case of a District Court or a Subordinate Judge's Court, by the [1] [State Government],

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor-General in Council " were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch. Pt. I.

[3] This paragraph was added by section 2 of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[4] Section 4-A was inserted by section 3, *ibid.*

(*Part II.—Establishment and Constitution of Civil Courts. Part III.—Jurisdiction.*)

in the case of a District Munsif's Court, by the High Court.

[1] [The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.]

[2] **6.** [* * * * * *].

[2] **7.** [* * * * * *].

District Courts, Subordinate Judges and District Munsifs.

8. The present Zila Courts, Principal Sadr Amins, and District Munsifs, shall be respectively the first "District Courts," "Subordinate Judges," and "District Munsifs" under this Act.

Seal of Court.

9. Every Court under this Act shall use a seal of such form and dimensions as are, for the time being, prescribed by the [3] [State Government].

PART III.

JURISDICTION.

Local limits of jurisdiction of District Court or Subordinate Judge.

10. The [3][State Government] shall fix, and may from time to time vary, the local limits of the jurisdiction of any [4] [District Court or Subordinate Judge's Court] under this Act:

[5] [* * * * * *].

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to have been fixed under this Act.

Local jurisdiction of District Munsifs.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.

[6][* * * * * *].

Jurisdiction of District Judge or Subordinate Judge in original suits.

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

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[1] This sentence was added by section 2 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885).

[2] These sections were omitted by the Adaptation Order of 1937.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "District Judge or Subordinate Judge" by section 4 (*a*) of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[5] The proviso to section 10 was omitted by section 4 (*b*), *ibid.*,

[6] The second paragraph of section 11 which was added by section 3 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885), was omitted by section 5 *ibid.*

(*Part III.—Jurisdiction.*)

Jurisdiction of District Munsif.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject-matter does not exceed [1] [five thousand rupees].

Appeals from decrees of District Courts.

13. Regular or special appeals, [2][. . .] shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appellate jurisdiction of District Court.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court :

Appellate jurisdiction of Subordinate Judge.

Provided that, whenever a Subordinate Judge's Court is established in any district at a place remote from the station of the District Court, the High Court may, with the previous sanction of the [3] [State Government], direct that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Disposal of appeal by District Judge.

Provided also, that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the district:

[4] [Provided further that when the District Court or the Subordinate Judge's Court to which appeals lie is adjourned under section 30, the High Court shall have power to receive such appeals.]

Valuation of suits for immovable of property.

[5] **14.** When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees Act, 1870, section 7, clause v.

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[1] These words were substituted for the words " three thousand " by section 2 (1) of the Madras Civil and Village Courts (Amendment) Act, 1951 (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[2] The words and figures " or appeals under Madras Regulation XI of 1832, section 9," were repealed by the Repealing and Amending Act, 1891 (Central Act XII of 1891).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This proviso was added by section 2 of the Madras Civil Courts (Amendment) Act, 1945 (Madras Act XXII of 1945). This was permanently re-enacted by section 2 of and the First Schedule to the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[5] This section is repealed in local areas to which rules under section 3 of the Suits Valuation Act, 1887 (Central Act VII of 1887) apply—*see* section 6 of that Act.

(*Part III.—Jurisdiction.*)

Power to require witness or party to make oath or affirmation.

15. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

Law administered by Courts to Natives.

[1] **16.** Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,

(*a*) the Muhammadan law in cases where the parties are Muhammadans and the Hindu law in cases where the parties are Hindus, or,

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished,

(*c*) in cases where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

Judges not to try suits in which they are interested; nor to try appeals from decrees passed by them in other capacities.

17. No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing of such suits and appeals.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 6.[2]

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

[3][PART IV.]

[1] The provisions of this section in so far as they are inconsistent with the provisions of the Muhammadan Personal Law (Shariat) Application Act, 1937 (Central Act XXVI of 1937), have been repealed—*see* section 6 of that Act.

[2] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908), section 24.

[3] The whole of Part IV which contained sections 18 to 21 was omitted by the Adaptation Order of 1937.

(*Part V.—Ministerial Officers. Part VI.—Miscellaneous.*)

PART V.

MINISTERIAL OFFICERS.

[1]**22.** [* * * * *]

[1]**23.** [* * * * *]

[2][**24.** The Ministerial Officers of a Court shall perform such duties as may from time to time be imposed upon them by the presiding officer of the Court.] Duties of Ministerial Officers.

[3]**24-A.** [* * * * *].

PART VI.

MISCELLANEOUS.

[4][24-A. (1) Notwithstanding anything contained in this Act, a Subordinate Judge may, where the [5][State] Government so direct, be appointed for the area comprised within the local limits of the jurisdiction of two or more District Courts. Appointment of Subordinate Judge for two or more districts.

(2) A Subordinate Judge so appointed shall hold his Court at such place within the jurisdiction of each of the said District Courts and for such period as the High Court may from time to time fix.

(3) The local limits of the jurisdiction of the Subordinate Judge's Court, when it is held at any such place, shall be the same as those of the District Court concerned, but the Subordinate Judge's Court shall not entertain any original suit or proceeding and shall try or dispose of only such suits, appeals and other proceedings as may be transferred to it by the District Court under this Act or any other law.

(4) Appeals from the decrees and orders of the Subordinate Judge in suits or proceedings so transferred shall, where they lie to a District Court, lie to the District Court which transferred the suits or proceedings.]

25. In the event of the death of the District Judge, Temporary discharge of duties of District Judge.

or of his being incapacitated by illness or otherwise for the performance of his duties,

or his absence from the station in which his Court is held,

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[1] These sections were omitted by the Adaptation Order of 1937.

[2] This section was substituted for the original section by *ibid.*

[3] This section was omitted by *ibid.*

[4] This section was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1948 (Madras Act X of 1948).

[5] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[1] [the senior Additional District Judge or the Additional District Judge as the case may be or if there is no Additional District Judge], the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

[2] **26.** [* * * * *].

District Judge to control Civil Courts of District.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any district is vested in the District Judge.

Investiture of District or Subordinate Judge with Small Cause jurisdiction.

[3] **28.** The [4] [High Court] may, by notification in the official Gazette, invest within such local limits as it shall from time to time appoint,

any [5] [District or] Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of [6] [two thousand rupees],

Investiture of District Munsif with similar jurisdiction.

and any District Munsif with the same jurisdiction up to the amount of [7] [. . . .] [8] [five hundred rupees],

and may, by like notification, whenever it thinks fit, withdraw such jurisdiction from the [5] [District or] Subordinate Judge or Munsif so invested.

Exercise by Subordinate Judge of jurisdiction of District Judge in certain proceedings.

[9] [**29.** (1) The High Court may, by general or special order, authorize any Subordinate Judge to take cognizance of,

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[1] These words were inserted by section 6 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[2] This section was omitted by the Adaptation Order of 1937.

[3] See section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951 (Madras Act XVI of 1951.)

[4] These words were substituted for the words "Local Government" by the Decentralization Act, 1914 (Central Act IV of 1914), Sch., Pt. I.

[5] These words were inserted by section 5 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885).

[6] These words were substituted for the words "rupees one thousand" by section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951, (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[7] The words "rupees fifty or on the recommendation of the High Court up to any amount not exceeding" were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch., Pt. I.

[8] These words were substituted for the words "rupees three hundred" by section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951, (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[9] This section was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1926 (Central Act XIV of 1926).

Central Act. XXXIX of 1925.

or any District Judge to transfer to any Subordinate Judge under his control, any proceedings under the Indian Succession Act, 1925, which cannot be disposed of by District Delegates.

(2) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them.

(3) Notwithstanding anything contained in section 13, proceedings taken cognizance of by, or transferred to, a Subordinate Judge under the provisions of this section shall be disposed of by him subject to the law applicable to like proceedings when disposed of by the District Judge.]

Vacation.

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

SCHEDULE.

[*Repealed by the Repealing Act*, 1873 (*Central Act XII of* 1873).]